

APR 15 2008

38550

Customer Number

Patent  
Case No.: CGL03/0444US01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: Fiascone, Bernadette

Application No.: 10/707155

Group Art Unit:

Int'l Appl'n No.:

Int'l Filing Date:

Title: GLOBAL BALANCING TOOL

Mail Stop PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

To Fax No.: 703-746-4060  
I hereby certify that this correspondence is being facsimile transmitted to the U.S.  
Patent and Trademark Office on:

04/15/08  
Date

Signed by: Janan Abed

Dear Sir:

We would like to notify the U.S. Patent and Trademark Office that we no longer own the above-mentioned application. This application was assigned to Refco Group Ltd., LLC in 2005. Accordingly, we are returning with this communication the Office Action dated March 11, 2008 in this case. Please direct any future correspondences to Refco Group Ltd., LLC. The address listed for Refco in the Assignment is:

200 Liberty Street, New York, New York 10281.

Date: 15 Apr 08

Respectfully submitted,

Edward S. Hotchkiss  
Reg. No. 33,904

CARGILL, INCORPORATED  
Law Department  
P.O. Box 5624  
Minneapolis, MN 55440-5624  
Telephone No.: (952) 742-2848  
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## UNITED STATES PATENT AND TRADEMARK OFFICE

APR 15 2008

UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,155	11/24/2003	Bernadette Fiascone	005216.00014	1154

30754 7590 03/11/2008  
CARGILL, INC.  
15407 MCGINTY ROAD WEST  
WAYZATA, MN 55391-2399

EXAMINER

HAMMOND III, THOMAS M

ART UNIT PAPER NUMBER

3691

MAIL DATE DELIVERY MODE

03/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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**APR 15 2008**

<p align="center"><b>Office Action Summary</b></p>	Application No. 10/707,155	Applicant(s) FIASCONI ET AL.	
	Examiner THOMAS M. HAMMOND III	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 24 November 2003.

2a) ☐ This action is FINAL.      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-24 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-24 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>12/04/2003</u>	6) <input type="checkbox"/> Other: _____

U.S. Patent and Trademark Office  
PTOL-326 (Rev. 08-06)

Office Action Summary

Part of Paper No./Mail Date 20080220

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## DETAILED ACTION

### *Status of Claims*

1. This action is in reply to the continuing application filed on 11/24/2003.
2. Claims 1-24 are currently pending and have been examined.

### *Information Disclosure Statement*

3. The Information Disclosure Statement filed on 12/04/2003 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

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### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

*Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.*

5. Claims 18-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

6. As recited, claims 18-24 are directed toward computer software embodied on a computer program product. However, under the current guidelines of 35 USC 101, computer software must be tangibly embodied on a computer readable medium, and, when executed by a computer processor, perform the steps of the software. In their broadest reasonable interpretation and in light of the specification, claims 18-24, as recited, can be interpreted to be embodied on abstract mediums such as carrier waves and signals, and therefore not eligible for patent protection. Accordingly, claims 18-24 are not eligible for patent protection.

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### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

*The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.*

8. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. With regard to claim 14, the Applicant recites the limitation, "wherein the exchange account data received in (a) does not identify clients of the firm". The Examiner interprets this negative limitation, in light of the specification, as being vague and indefinite, as it does not positively set forth the scope of the invention. For the purposes of examination, the Examiner will interpret this limitation providing security to the information being exchanged.

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**Claim Rejections - 35 USC § 102**

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless –*

*(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

11. Claims 1-6 and 9-15 are rejected under 35 U.S.C. 102(e) as being anticipated by *Rosen et al.*, US Patent Publication No. 2003/0050879.

**As per claim 1*****Rosen et al. teaches:***

- (a) receiving exchange account data that lists positions held by clients of the firm at at least one exchange (see at least page 5, paragraph 36)
- (b) receiving firm account data that lists positions held by the clients of the firm at the exchange (see at least page 5, paragraph 36)
- (c) comparing the exchange account data to the firm account data (see at least page 5, paragraph 36)
- (d) displaying on a display device data included in the exchange account data that does not match data included in the firm account data (see at least pages 7-8, paragraphs 74-75 & 86)
- (e) receiving an input from a user for additional information relating to the data displayed in (d) (see at least page 13, paragraphs 141-144)
- (f) in response to the input in (e) displaying on the display device additional information relating to the data displayed in (d) (see at least page 13, paragraphs 141-144)

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**As per claim 2**

*Rosen et al. teaches the method of claim 1, as described above.*

*Rosen et al. further teaches:*

- (g) receiving at least one adjustment from the user (see at least page 13, paragraphs 141-144)

**As per claims 3-5**

*Rosen et al. teaches the method of claim 2, as described above.*

*Rosen et al. further teaches:*

- Wherein the at least one adjustment is to exchange account data (see at least page 8, paragraph 78)
- Wherein the at least one adjustment is to firm account data (see at least page 8, paragraph 78)
- Wherein (g) comprises receiving information identifying the user (see at least page 8, paragraphs 80-82)

**As per claim 6**

*Rosen et al. teaches the method of claim 5, as described above.*

*Rosen et al. further teaches:*

- Creating a report from reconciled exchange account data or firm account data (see at least page 5, paragraphs 36)

**As per claim 9**

*Rosen et al. teaches the method of claim 2, as described above.*

*Rosen et al. further teaches:*

- Repeating (c) after (g) (see at least page 5, paragraphs 38-39)



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As per claims 10-14

*Rosen et al. teaches the method of claim 2, as described above.*

*Rosen et al. further teaches:*

- Reformatting exchange account data into a standard format (see at least page 8, paragraph 77)
- Aggregating client account data into firm account data (see at least page 9, paragraph 101)
- Calculating an amount required to maintain in at least one margin account (see at least page 8, paragraph 78)
- Wherein (a) includes receiving trading position data from a brokerage house (see at least page 6, paragraph 56)
- Wherein the exchange account data received in (a) does not identify clients of the firm (see at least page 8, paragraphs 80-82)

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***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

13. Claims 7-8 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Rosen et al.*

As per claims 7-8

*Rosen et al. teaches the method of claim 6, as described above.*

*Rosen et al. further teaches:*

- A relational database configured to store and track both user and customer information in relation to all information that has been processed (see at least page 8, paragraph 85)

*Rosen et al. does not teach:*

- Wherein the report identifies users who have made adjustments to at least one of exchange account data or firm account data
- Wherein the report comprises a segregated funds report

*However, the Examiner take OFFICIAL NOTICE that identifying users who make adjustments to reports is old and well known in the financial industry as a method of auditing. Furthermore, the embodiment of a segregated funds report is also old and well known. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to include these well known features in the teachings of Rosen et al. One would have been motivated to do so to meet the requirements of*

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*Rule 123 of the NYSE and ACT as well as to offer compatibility with existing systems (see at least page 5, paragraph 42; page 6, paragraph 56)*

**As per claim 15**

***Rosen et al. teaches the method of claim 1, as described above.***

***Rosen et al. further teaches:***

- A hypertext transfer protocol internet browser system compatible with several programs such as html, XML and JSP (see at least page 6, paragraph 55)

***Rosen et al. does not teach:***

- Wherein the input in (e) comprises the selection of a hyperlink

*However, the Examiner take OFFICIAL NOTICE that hyperlinks are old and well known in the computer arts as user-friendly means for navigating a web page. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to include this well known feature in the teachings of Rosen et al. One would have been motivated to do so in order to provide a user-friendly means for navigating information as is commonly done in web browser interfaces.*

**As per claim 16**

***Rosen et al. teaches the method of claim 6, as described above.***

***Rosen et al. does not teach:***

- Further including performing a currency conversion

*However, the Examiner take OFFICIAL NOTICE that performing currency conversion is old and well known in the art of finance, particularly when trading currency. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to include this well known feature in the teachings of Rosen et al. One would have been motivated to do so in order to provide a means for risk analysis of a firm's position in real time (see at least page 4, paragraphs 32-34).*

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As per claim 17

*Rosen et al. teaches the method of claim 1, as described above.*

*Rosen et al. does not teach:*

- Further including translating text

*However, the Examiner take OFFICIAL NOTICE that translating text is old and well known. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to include this well known feature in the teachings of Rosen et al. One would have been motivated to do so in order to provide real time risk management controls (see at least page 4, paragraph 29).*

#### ADDITIONAL REJECTIONS

Claims 18-24 are interpreted to encompass substantially the same scope as claims 1-17. Accordingly, claims 18-24 are rejected in substantially the same manner as claims 1-17, as described above.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Hammond III whose telephone number is 571-270-1829. The examiner can normally be reached on Monday - Thursday, 7AM - 5PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thomas M. Hammond III

Patent Examiner, Art Unit 3691

United States Patent &amp; Trademark Office

02/20/2008

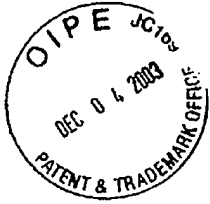
/Hani M. Kazimi/

Primary Examiner, Art Unit 3691

EFS-Web Receipt date: 12/04/2003

12-5-07

10707155 - GAU: 3691



CERTIFICATE OF MAILING BY EXPRESS MAIL  
(Attorney Docket No. 5216.00014)

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Express Mail No EV306395675US

Deposited: December 4, 2003

I hereby certify that the attached correspondence, identified below, is being deposited with the United States Postal Service as "Express Mail Post Office to Addressee" under 37 CFR 1.10 on the date indicated above and is addressed to the Asst. Commissioner for Patents, Mail Stop Non-Fee Amendment, Arlington, VA 22313-1450.

P.O. BOX 1450

ALEXANDRIA

By: \_\_\_\_\_

(person actually depositing)

In the Application of: Fiascone, et al

Serial No.: 10707,155

Title: Global Balancing Tool

- ☒ Form PTO/SB/21 (in duplicate)
- ☒ Information Disclosure Statement
- ☒ Form PCT/SB/08A
- ☒ Cited Foreign Reference
- ☒ Postcard

Attorney Docket No.: 5216.00014

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EFS Web Receipt date: 12/04/2003

PTO/SB/21 (05-03)

Approved for use through 04/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL  
FORM

(to be used for all correspondence after initial filing)

Application Number	10707,155
Filing Date	November 24, 2003
First Named Inventor	Bernadette Fiascone, et al
Art Unit	
Examiner Name	
Total Number of Pages in This Submission	Attorney Docket Number 005216.00014

## ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) ____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below): Form PTO/SB/08A 1 Cited Reference Postcard Receipt
Remarks The Commissioner is hereby authorized to charge any fees associated with the filing of these documents to Deposit Account 19-0733.		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Charles L. Miller
Signature	<i>Charles L. Miller</i> 51,393
Date	12/4/2003

## CERTIFICATE OF MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name			
Signature		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Atty. Docket No. 5216.00014)

In re Application of:

Bernadette Fiascone, et al

Serial No.: 10/707,155

Filed: November 24, 2003

For: GLOBAL BALANCING TOOL

Group Art Unit: Not Assigned

Examiner: Not Assigned

Confirmation No. 1154

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents  
Arlington VA 22313

Dear Sir:

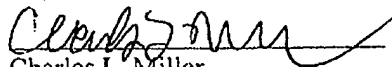
Pursuant to 37 C.F.R. Section 1.97-1.98, Applicants wish to make the following references listed on the enclosed Form PTO/SB/08A of record in the above-identified application. This Information Disclosure Statement is in compliance with the continuing duty of candor as set forth in 37 C.F.R. Section 1.56. Copies of the references cited are enclosed.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated: December 2, 2003

By:

  
Charles L. Miller  
Reg. No. 43,805

Banner & Witcoff, Ltd.  
10 South Wacker Drive  
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Telephone (312) 715-1000

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<b>Notice of References Cited</b>	Application/Control No. 10/707,155	Applicant(s)/Patent Under Reexamination FIAScone ET AL.	
	Examiner THOMAS M. HAMMOND III	Art Unit 3691	Page 1 of 1

## U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2003/0050879	03-2003	Rosen et al.	705/35
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
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## FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
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## NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
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\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
 Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

U.S. Patent and Trademark Office  
 PTO-892 (Rev. 01-2001)

Notice of References Cited

Part of Paper No. 20080220